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#S#yy####yy#####y#yyd#####Z#####t###Mark Stone, Maj, USAFAFMC Law
Office, Wright-Patterson AFB, OHDSN 785-5700 (937-255-5700), ext. 31414 March
1997

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#£#ÿÿ####ÿÿ#####ÿÿd#####Z#####Ð###Provisions deleted from the prior
Act Bans on obtaining & disclosing informationRequirement to report employment
contactsThe 1-year ban on accepting compensation from the contractor
Miscellaneous rules

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New#Procurement Integrity Act (PIA)

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-ý& ##ÿÿ####ÿÿ####ÿÿ#ÿÿd#####Z#####Congress recently rewrote the
PIA -- the new version went into effect on 1 Jan 97The prior PIA was
implemented by FAR 3.104 -- the new PIA is implemented by a new FAR 3.104The
new FAR 3.104 was published in the Federal Register on 2 Jan 97 & was effective
on 1 Jan 97s

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are Not in the New PIA

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accepting gifts from competing contractors deleted -- but employees must still
follow gift rules in Joint Ethics Regulation (JER) Requirement for govt.
employees to receive PIA training deleted -- but employees who complete a
financial disclosure report (SF 278 or OGE Form 450) still must receive ethics
training once a year#

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ns in the Prior PIA#That are Not in the New PIA#

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contracting officers, & competing contractors complete PIA certificates deleted
2-year post-employment restriction deleted (but new PIA has a 1-year ban on
accepting compensation from the contractor)Many of the rules in prior PIA
applied to ÿprocurement officialsÿ -- that term is not in the new PIA

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PIA -- Ban on#Obtaining Procurement Informationo

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may not knowingly obtain [source selection information] or [contractor bid or
proposal information] before contract award, other than as provided by lawBan
applies to everyone, including Federal employees & contractor employees

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on#Disclosing Procurement Information

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award, the disclosure of:Source selection information, &Contractor bid or
proposal informationThe ban applies to:Current and former Federal employees, &
Anyone who is advising or has advised the U.S. Govt. regarding the procurement
(i.e. contractor employees & consultants)

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#####Z#####0###Definition of#Source Selection Information (SSI)

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information:(1) Bid prices submitted by bidders(2) Costs or prices submitted
by offerors(3) Source selection plans(4) Technical evaluation plans(5)
Technical evaluations of proposals(6) Cost or price evaluations of proposals
(7) Competitive range determinations(8) Rankings of bids or proposalst

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#####1###Definition of#Source Selection Information (SSI)s

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#####SS I means: (9) Reports &
evaluations of source selection panels, boards or advisory councils, (10)
Other information, if: (A) Contracting officer has determined
that its disclosure would jeopardize integrity of the
procurement, and (B) It is marked with Source Selection
Information -- See FAR 3.104

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nition of#Source Selection Information (SSI)a

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SSI are SSI whether or not they are marked as SSI, they should nevertheless be
marked with ☐Source Selection Information--See FAR 3.104☐Multi-page documents.
If document contains SSI, then cover page & each page that contains SSI must be
marked with ☐Source Selection Information--See FAR 3.104☐Info. that has been
disclosed publicly or made available to public is not considered as SSI

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ù #Ãûÿÿ####ÿÿ#####ÿÿd#####Z#####<###Definition of Contractor#Bid or
Proposal Information (CBPI)

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#sÿÿ####ÿÿ####ÿÿ#ÿÿd#####Z#####®###CBPI means any of five types of
information:Cost or pricing dataIndirect costs & direct labor ratesProprietary
information about manufacturing processes, operations or techniques marked by
the contractor IAW applicable law or reg.Information marked by the contractor as
□contractor bid or proposal information□Information marked by the contractor IAW
FAR clause 52.215-12, entitled □Restriction on Disclosure and Use of Data□

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(CBPI)

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publicly or made available to public is not considered as CBPIContractors are
not prohibited from disclosing their own CBPIThe ban on disclosing SSI & CBPI
does not authorize the withholding of information from Congress, the Comptroller
General, or the IG

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(CBPI)

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markings. If the contracting officer (C.O.) believes that:-- Information
marked as proprietary is not;-- Information marked as CBPI is not, OR--
Information marked IAW FAR 52.215-12 should not be so marked, C.O. may ask
contractor to justify marking, & then determine if marking is appropriate #

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###Disclosing or Obtaining SSI or CBPI --#Penalty for Individuals#

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#e###If an individual improperly discloses or obtains SSI or CBPI --In exchange
for anything of value, orIn order to obtain for himself, or give to anyone else,
a competitive advantage in the award of a Federal contract, the maximum
penalty is:Five years in prison,Civil penalty of \$50,000 for each violation &
Adverse personnel action (i.e. termination)#

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Individuals a

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#Ãÿÿ#####ÿÿd#####Z#####/###If an individual knowingly
discloses or obtains SSI or CBPI in violation of Procure-ment Integrity Act (but
not in exchange for anything of value, or to give anyone a competitive
advantage), maximum penalty is:Civil penalty of \$50,000 for each violation &
Adverse personnel action (i.e. termination) #

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#####Z#####A###Disclosing or Obtaining SSI or CBPI --#Penalty for
Organizations#

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improperly discloses or obtains SSI or CBPI --In exchange for anything of value,
orTo obtain for itself, or anyone else, a competitive advantage in award of
contract, the maximum penalty is:Civil penalty of \$500,000 for each violation,
Rescission of contract, if contract awarded,Disqualification of offeror or
cancellation of procurement, if contract not yet awarded, &Suspension &
debarment proceedingsx

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CBPI --# Penalty for Organizations

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knowingly discloses or obtains SSI or CBPI in violation of Procurement Integrity
Act (but not in exchange for anything of value, or to give anyone a competitive
advantage), maximum penalty is:Civil penalty of \$500,000 for each violation,
Contractual remedies (such as recapture of profits), if contract has been
awarded,Disqualification of offeror or cancellation of procurement, if contract
not yet awarded, &Suspension & debarment proceedings

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Contact Reporting Rule

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Rule applies only to contracts in
excess of simplified acquisition threshold (\$100,000)Rule applies only between
date when bids or proposals are received & contract award dateRule applies to
contacts with bidders & offerorsA company is not a bidder or offeror
until it submits a bid or offer

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employment contact reporting rule, maximum penalty is:Civil penalty of \$50,000
for each violation, &Adverse personnel action (i.e. termination)

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Organizations#

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that is a bidder or offeror in a procurement contacts, or is contacted by, an
employee who is participating in the procurement, and company engages in
employment discussions with employee, and company knows employee has not
reported the contact to supervisor & to JA, max. penalty is: Civil penalty of
\$500,000 for each violation, Contractual remedies, if contract awarded,
Disqualification of offeror or cancellation of procurement, if contract not
awarded, & Suspension & debarment proceedings

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Employment#1-Year Compensation Ban#

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positions, or who make one of seven types of decisions, on a contract over
\$10 million, may not accept compensation from the contractor for 1 year1-year
ban is on accepting compensation from the contractor as an employee, consultant,
officer or directorBan can apply to officers, enlisted & civilians

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Procuring Contracting OfficerSource
Selection AuthorityMember of Source Selection Evaluation BoardChief of financial
or technical evaluation teamProgram ManagerDeputy Program ManagerAdministrative
Contracting Officer

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over \$10 millionDecision to award a subcontract over \$10 millionDecision to
award a modification that is over \$10 million of a contract or subcontract
Decision to award a task order or delivery order over \$10 million

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or other rates applicable to a contract or contracts valued over \$10 million
Decision to approve issuance of a contract payment or payments over \$10 million
Decision to pay or settle claim over \$10 million

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Ban Starts to Run#

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members, & evaluation team chiefs, ban starts on date of contract award
Exception: If an individual was serving in the position on the date of
contractor selection, but not on the date of contract award, the ban begins to
run on date of contractor selectionFor PMs, DPMs & ACOs, ban starts to run on
last day of service in the positionFor decisionmakers, ban starts on date of
decision

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of 1-Year Comp. Ban

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not apply to accepting compensation from any division or affiliate of a
contractor that does not produce the [same or similar products or services] as
the entity of the contractor that has the contract the person worked on If 1-
year ban applies:Individual may not accept compensation, &Contractor may not
provide compensation

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Z#####5###Post-Employment#Legal Opinions under 1-Year Comp. Baný

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Ãÿÿ####ÿÿ####ÿÿÿÿd#####Z#####3###Individuals can request advice
on whether 1-year ban applies to themThe legal opinion (30-day letter)
must be issued within 30 days after receipt of written request (or as soon
thereafter as practicable)JA has handout for clients with instructions on how to
prepare a request for 30-day letter F

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#####Z#####3###1-Year Compensation Ban --#Penalty for Individuals#

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#3#ÿÿ####ÿÿ#####ÿÿd#####Z#####If an individual accepts
compensation from a contractor in violation of 1-year compensation ban,
maximum penalty is:Civil penalty of \$50,000, plusCivil penalty of twice the
amount of compensation the individual received in violation of the ban8

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--#Penalty for Organizationsh

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###ÿÿ#####ÿÿd#####Z#####"###If a contractor pays compensation
to individual in violation of 1-year ban, maximum penalty is:Civil penalty of
\$500,000, plus twice the amount of compensation the company paid in violation
of the ban,Contract remedies (e.g. recapture of profit), &Suspension & debarment
proceedings

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ù[]#Âûÿÿ####ÿÿ#####ÿ[]#ÿÿd#####Z#####÷###2-Year Post-Employment Ban#of the
Prior PIA#

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#s#ÿÿ####ÿÿ####ÿÿd#####Z#####p###Under the prior PIA, an employee
who was a [procurement official] for a procurement could not, for 2 years: Assist
the winning contractor in the performance of the contract, or Assist any
contractor in negotiations leading to the award, modification or extension of
the contract Employees who left Federal service before 1 Jan 97 remain
subject to this 2-year ban

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PIA --#Bid Protest Provision

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#,###New PIA says a company may not file a bid protest based on a PIA violation
unless the company--Reports the information about the violation to the Federal
agency responsible for the procurement, andThe report is made no later than 14
days after the company first discovered the possible violation

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